

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION**

<b>IN RE:</b>	§	
	§	
<b>FIRED UP, INC.</b>	§	<b>CASE NO. 14-10447-tmd</b>
	§	<b>(Chapter 11)</b>
<b>DEBTOR<sup>1</sup></b>	§	

**APPLICATION FOR AUTHORITY TO EMPLOY THE VERNON LAW GROUP, PLLC  
AS SPECIAL COUNSEL FOR THE DEBTOR**

A hearing will be conducted on this matter on June 5, 2014 at 1:30 pm in courtroom no. 1, 903 San Jacinto, Austin, TX 78701.

If you object to the relief requested, you must respond in writing, specifically answering each paragraph of this pleading. Unless otherwise directed by the court, you must file your response with the clerk of the bankruptcy court within 21 days from the date you were served with this pleading. You must serve a copy of your response on the person who sent you the notice; otherwise, the court may treat the pleading as unopposed and grant the relief requested.

TO THE HONORABLE JUDGE OF SAID COURT:

Fired Up, Inc. (the "Debtor") hereby files this Application for Authority to Employ The Vernon Law Group, PLLC ("the Firm") as Special Counsel for the Debtor (the "Application").

**Jurisdiction and Venue**

1. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A). Venue is proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409. The Court has authority to grant the Application pursuant to 11 U.S.C. § 327(a).

**Relief Requested**

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<sup>1</sup> Until February 26, 2014, Debtor's business was being operated partially by the Debtor, partially by Kona Restaurant Group, Inc. ("KRG"), a Delaware corporation wholly owned by the Debtor, and partially by Carino's Italian Kitchen, Inc. ("CIK"), a Delaware corporation wholly owned by KRG. CIK was merged into KRG in Delaware and KRG was merged in to the Debtor, a Texas corporation, in Texas.

2. The Debtor filed a voluntary petition for relief under chapter 11 of the United States Bankruptcy Code, 11 U.S.C. §101, et. seq., (the "Bankruptcy Code") on March 27, 2014 (the "Petition Date").

3. The Debtor is operating its business and managing its assets as a debtor-in-possession pursuant to 11 U.S.C. §§ 1107 and 1108. This Court has not appointed a trustee or examiner; the Court has appointed a Committee of Unsecured Creditors.

4. Pursuant to 11 U.S.C. § 327(e), the Debtor requests the entry of an order authorizing the employment of the Firm as special counsel for the Debtor in this Chapter 11 case. The Firm maintains an office at 4925 Greenville Avenue, Suite 200, Dallas, Texas 75206, and can be reached at (214) 273-3715, e-mail address: jvernon@vernonlawgroup.com.

5. The Debtor has selected the Firm as special counsel because its attorney, John Vernon has experience working with the Debtor, he is knowledgeable of Debtor's business, and he has extensive knowledge and experience in franchise law.

#### Basis for Relief

6. Section 327(e) of the Bankruptcy Code authorizes a trustee to retain:

For a specified special purpose, other than to represent the trustee in conducting the case, an attorney that has represented the debtor, if in the best interest of the estate, and if such attorney does not represent or hold any interest adverse to the debtor or to the estate with respect to the matter on which such attorney is to be employed.

*See* 11 U.S.C. § 327(e).

7. The Debtor seeks to retain the Firm as special counsel. The Debtor believes that the Firm possesses the requisite resources and is both highly qualified and uniquely able to represent the Debtor in this case.

8. The Debtor proposes to employ the Firm to perform the following services for the estate: prepare 2014 Franchise Disclosure Documents for Johnny Carino's Italian Restaurants, perform franchise registration and renewal filings in applicable states, and provide franchise advice with regard to ongoing business operations.

9. Subject to the fee application process and this Court's approval, the Firm will charge Debtor for its legal services on an hourly basis. The rates at which the Debtor will be billed are as follows: John Vernon - \$575.00/hour and Taylor Vernon - \$275.00/hour. The Firm will file a fee application not later than the date set for filing fee applications.

10. To the best of the Debtor's knowledge, other than in connection with this chapter 11 case, the Firm has no connection with the Debtor, its creditors, any other party in interest, their respective attorneys and accountants, the United States Trustee, or any person employed in the office of the United States Trustee, except as set forth herein and/or in the Verified Statement of John Vernon (the "Vernon Statement"), filed pursuant to Federal Rule of Bankruptcy Procedure 2014(a).

11. Based on the Vernon Statement and the Debtor's knowledge of its business, litigation and relations with creditors and other parties in interest, the Firm does not represent or hold any interest adverse to Debtor, its estate, creditors, equity security holders, or affiliates in the matters upon which it is to be engaged, and the Firm is a person "necessary in the operation of [Debtor-in-possession's] business" within the meaning of 11 U.S.C. § 327.

12. The Firm is owed for fees incurred during the week prior to bankruptcy. Debtor paid The Firm a retainer in the amount of \$25,000.00. As disclosed in the attached Unsworn Declaration Under Penalty of Perjury by the Counsel for Debtor, such retainer constitutes a "security retainer" and will be held in the Firm's trust account pending further order of the Court.

13. The Firm intends to apply to this Court for allowance of compensation and reimbursement of expenses pursuant to the provisions of the Bankruptcy Code, the Bankruptcy Rules, the Local Bankruptcy Rules, and any applicable orders entered by this Court with respect to the allowance and payment of fees and expenses in this case. The Firm's fees and expenses approved and allowed by this Court will be paid from the Debtor's cash flow. The Debtor requests that the Firm be permitted to file fee applications every sixty (60) days.

WHEREFORE, the Debtor respectfully requests that the Court (i) authorize the Debtor to employ and pay the Firm as special counsel in this chapter 11 case effective as of the petition date; and (ii) grant the Debtor such other legal and equitable relief to which it is entitled.

Dated: April 10, 2014

Respectfully Submitted,

**BARRON & NEWBURGER, P.C.**

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(512) 476-9253 Facsimile

By: /s/ Stephen W. Sather

Barbara M. Barron

State Bar No. 01817300

Stephen W. Sather

State Bar No. 17657520

**PROPOSED ATTORNEYS FOR DEBTOR**

APPROVED:

FIRE UP, INC.

By: 

Creed Ford III

President/Chief Executive Officer

**CERTIFICATE OF SERVICE**

I certify that a copy of the foregoing was served by electronic mail transmission on April 16, 2014, to all parties listed on the Service List attached to the filed copy of this Pleading and electronically by the Court's ECF system to all parties registered to receive such service. Copies of the matrix are not included in service copies but may be obtained from the Clerk of the Court or Debtor's counsel.

/s/Stephen W. Sather

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Deborah A. Bynum  
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Special Procedures Staff- Insolvency  
P.O. Box 7346  
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Texas Workforce Commission  
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UNITED STATES BANKRUPTCY COURT  
WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION

In Re:

FIRED UP, INC.  
Debtor

§  
§  
§  
§  
§

Case No. 14-  
(Chapter 11)

**UNSWORN DECLARATION UNDER PENALTY OF PERJURY**  
**BY THE COUNSEL FOR DEBTOR**

The undersigned John Vernon does hereby certify under penalty of perjury pursuant to Rule 2016(b) of the Bankruptcy Rules of Procedure:

1. That the compensation paid or promised to him for services to be rendered in connection with the case is as follows: Fees will be billed at the following rates:

Taylor Martin Vernon	\$275/hr.
John Martin Vernon	\$575/hr.

The principal staff on the file will be Taylor Vernon and John Vernon. Messrs. Vernon presently bills at a rate of \$275 per hour and \$575 per hour.

2. The firm received no payments from the Debtor during the year prior to bankruptcy. No fees were billed to the Debtor for the past three years. No fees were owed as of the petition date except for fees incurred during the week prior to bankruptcy.

3. The firm received a retainer from the Debtor in the amount of \$25,000 from the Debtor. The retainer was paid from the Debtor's funds. Such retainer constitutes a "security retainer" and will be held in the firm's trust account pending further order of the Court. The firm asserts a lien against such retainer for fees and expenses subject to Court approval.

4. That the source of such compensation is as follows: all fees will be paid from the retainer or the estate pursuant to court approval.

5. That affiant has not shared nor agreed to share such compensation with anyone except shareholders and associates of his firm.

EXECUTED ON THIS THE 24 DAY OF March, 2014.

By:

  
John Vernon

APPROVED:

Fired Up, Inc.

By: \_\_\_\_\_



Creed Ford, III, President

**UNITED STATES BANKRUPTCY COURT  
WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION**

**In Re:**

**FIRED UP, INC.  
Debtor**

§  
§  
§  
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§

**Case No. 14-  
(Chapter 11)**

**AFFIDAVIT OF PROPOSED FRANCHISE COUNSEL**

**STATE OF TEXAS**

§

§

**COUNTY OF DALLAS**

§

BEFORE ME, the undersigned authority, on this day personally appeared John M. Vernon, who, after first being duly sworn, upon his oath, deposed and stated as follows:

1. "I am an attorney licensed to practice in the State of Texas and maintain offices at 4925 Greenville Ave., Suite 200, Dallas, TX 75206. I am an attorney with the firm of The Vernon Law Group, PLLC ("the Firm").

2. The Firm has been engaged to represent Fired Up, Inc. for the following specific purposes:

- a. Preparation of 2014 FDD for Johnny Carino's Italian Restaurants
- b. Registration and Renewal Filings in applicable states
- c. Franchise advice during Chapter 11 proceedings

3. I requested that an employee of the Firm perform a search of the conflicts database for the Firm. I reviewed the results of the conflicts search and also made my own independent review of the list of creditors.

4. I do not have any interest adverse to the Bankruptcy estate set forth above in the matters upon which the firm is to be employed. To the best of my knowledge, I have no connection with the United States Trustee or any person employed at the office of the United States Trustee which would establish an interest adverse to the bankruptcy estate. I reserve the right to supplement this Affidavit if I become aware of any potential conflicts and will notify the Court immediately upon discovery of such information.

5. I am aware of the following connections which should be disclosed pursuant to Fed.R.Bankr.Pro. 2014:

a Debtor: The has represented the Debtor since approximately January 2014. The representation has been limited to franchise advice.

b. Creditors:

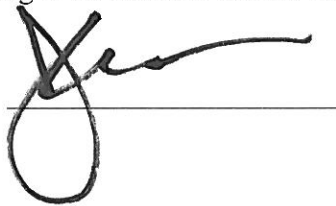
c. Other: None

d. U.S. Trustee: I am not aware of any connections with the U.S. Trustee or any person employed by the U.S. Trustee.

d. Attorneys: No attorneys have entered an appearance in this case at the present time.

4. Based upon the foregoing, I believe that the Firm is a disinterested person within the meaning of Sections 101(14) and 327 of the Bankruptcy Code.

5. I declare the above and foregoing to be true and correct under penalty of perjury.

A handwritten signature in black ink, consisting of a large, stylized 'X' or 'K' shape followed by a horizontal line extending to the right. The signature is written over a horizontal line.